



INTERIOR BOARD OF INDIAN APPEALS

Rose Ann Hamilton v. Acting Sacramento Area Director, Bureau of Indian Affairs

29 IBIA 188 (05/06/1996)

Denying reconsideration of:
29 IBIA 122



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ROSE ANN HAMILTON,	:	Order Denying Petition for
Appellant	:	Reconsideration
	:	
v.	:	
	:	Docket No. IBIA 95-65-A
ACTING SACRAMENTO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	May 6, 1996

Appellant Rose Ann Hamilton has petitioned for reconsideration of a March 12, 1996, Board decision dismissing her appeal concerning a Cahuilla Band of Mission Indians tribal government dispute. 29 IBIA 122.

Appellant's petition challenges the validity of a November 12, 1995, tribal election which was held during the pendency of the appeal and upon which the Board relied in concluding that the appeal was moot. In issuing its decision, the Board held that

it was the responsibility of appellant, as the person opposing a conclusion that an appeal from a prior leadership dispute is moot, to show one of the following: (1) that the 1995 election has been determined invalid in a tribal forum; (2) that a challenge to the 1995 election is presently pending in a tribal forum; (3) that BIA has declined to recognize the results of the 1995 election; or (4) that BIA has recognized the results of the 1995 election, but an appeal from that recognition is presently pending.

29 IBIA at 123.

For the first time in her petition for reconsideration, appellant lists, without discussion, specific objections to the 1995 election. However, she has not made any of the four showings the Board held were necessary to avoid a finding of mootness based on the holding of a subsequent tribal election.

In addition, the Board has held that it is not required to consider arguments raised for the first time in a petition for reconsideration. See, e.g., Pima Country Club, Inc. v. Phoenix Area Director, 21 IBIA 70 (1991), and cases cited therein.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, appellant's petition for reconsideration is denied. If she wishes, appellant may proceed to Federal court.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge